

## BIOBRICKS FOUNDATION — LEGAL STANDARDS WORKSHOP

### *Assessing Stakeholder Concerns and Developing a Legal Scheme*

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### OVERVIEW OF RELEVANT U.S. LEGAL PROTECTIONS

TYPE OF LAW	SUBJECT MATTER	SCOPE OF PROTECTION	DURATION OF PROTECTION
<b>Copyright</b>	<ul style="list-style-type: none"><li>- Literary, musical, choreographic, dramatic and artistic works as well as computer software and aesthetic elements of useful articles</li><li>- Also protects original compilations and arrangements of data</li><li>- No protection for ideas, systems, methods, procedures, facts, or research</li></ul>	<ul style="list-style-type: none"><li>- Rights of performance, display, reproduction, distribution, and making derivative works</li><li>- Protection against circumvention of technical protection measures</li><li>- Protection is immediate upon creation, though registration required to enforce</li><li>- Protection limited in some circumstances by statute and the fair use doctrine, e.g., reverse engineering for interoperability</li></ul>	<ul style="list-style-type: none"><li>- Life of the author + 70 years</li><li>- “works for hire:” 95 years after publication or 120 years after creation</li></ul>
<b>Patent</b>	Process, machine, manufacture, composition of matter, and designs	Exclusive right to make, use, sell or offer invention for sale	20 years from filing for patents filed after November 1, 1999
<b>Trademark</b>	Name, design, symbol, packaging, etc. used to identify a good or service in commerce	Exclusive right to use name in connection with sale or marketing of a good or service; can also be used exclusively to certify a “type” of product or service	Perpetual, subject to abandonment or loss of distinctiveness
<b>Trade Secret</b>	Formula, pattern, compilation, program, device, method, technique, process that has independent economic value and is not generally known to those in the field	Protection against acquisition or disclosure by improper means or in violation of duty of confidentiality	Perpetual until “secret” becomes public knowledge
<b>Contract Law</b>	<ul style="list-style-type: none"><li>- Agreements and exchanges between parties creating obligations that are enforceable by law</li><li>- Examples include MTAs, terms of use, and “click-wrap” licenses</li></ul>	<ul style="list-style-type: none"><li>- Dependent upon contract terms</li><li>- Only creates rights between parties that “agree” to contract</li></ul>	Dependent upon contract terms
<b><i>Sui generis</i></b>	<ul style="list-style-type: none"><li>- “of its own kind”</li><li>- Rights granted to owners of a small class of works (such as intellectual property rights in mask works, ship hull designs, or plant varieties) through special Congressional action,</li></ul>	Variable	Variable